



APPLICATION ACCEPTED: March 18, 2014
DATE OF PUBLIC HEARING: June 18, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 11, 2014

STAFF REPORT

SPECIAL PERMIT SP 2014-LE-023

LEE DISTRICT

APPLICANT/OWNER: Dzoan-Chau Ngo Le

LOCATION: 5301 Mayfair Court, Alexandria 22310

SUBDIVISION: Bush Hill Woods

TAX MAP: 81-4 ((27)) 155

LOT SIZE: 7,945 square feet

ZONING: R-4, H-C

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction in minimum yard requirements based on an error in building locations to permit accessory storage structure to remain 1.1 ft. from a side lot line.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

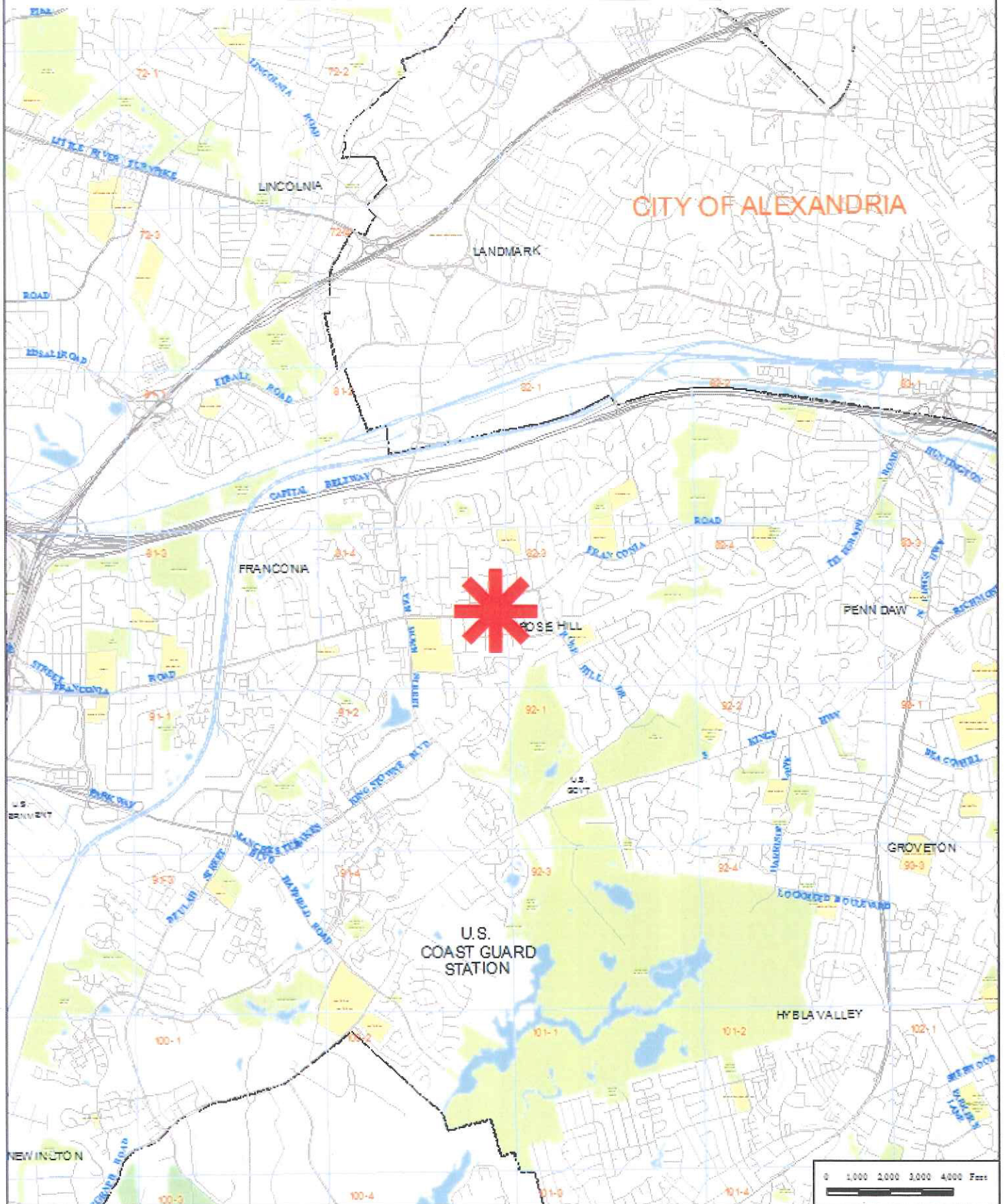
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



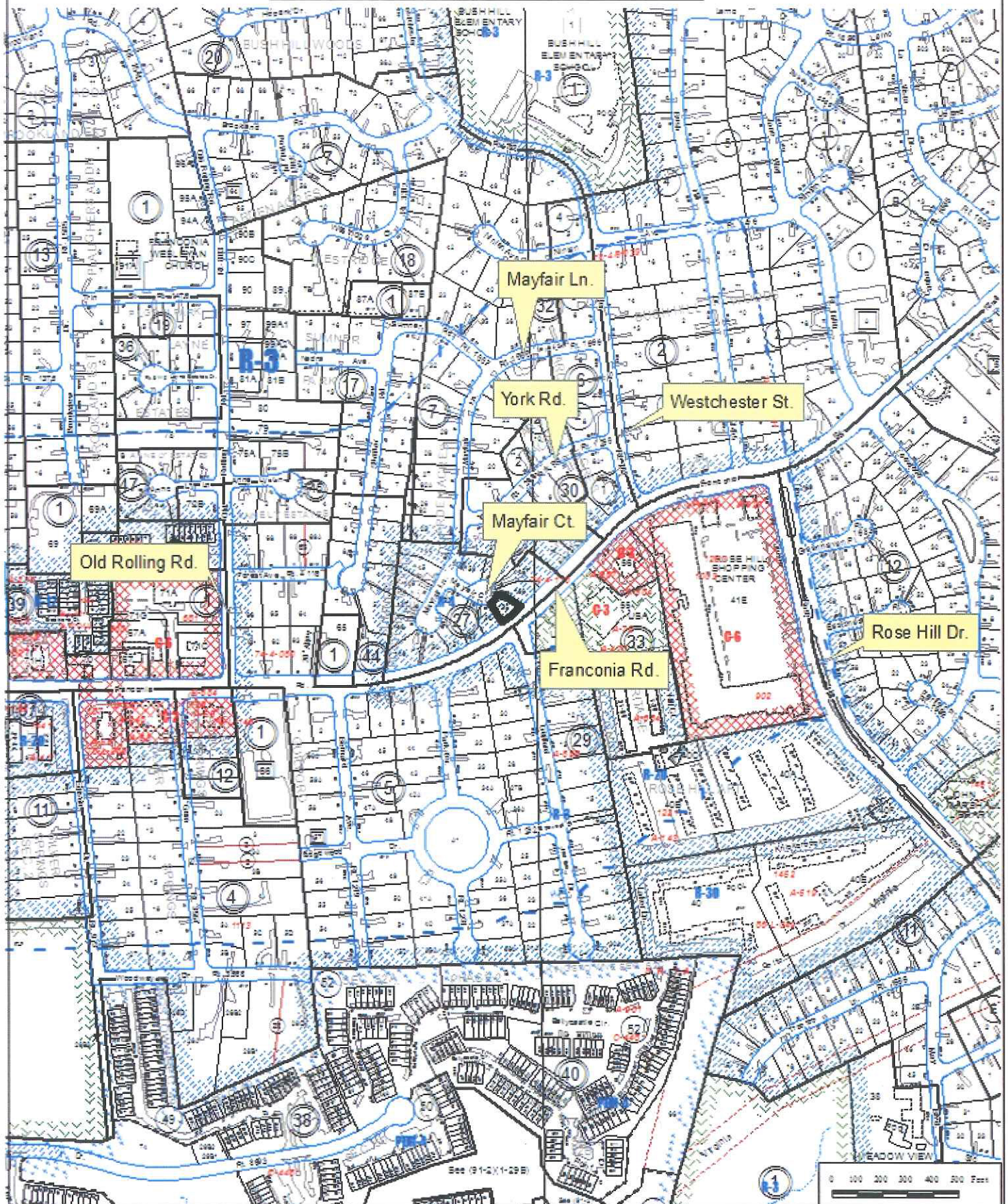
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2014-LE-023
DZOAN-CHAU NGO LE



Special Permit
SP 2014-LE-023
DZOAN-CHAU NGO LE



50' R/W ROUTE 6579

PART
LOT 156

LOT 156

RECORD NORTH

1. TAX MAP: 0814 27 0155 ZONE: R-4
2. PROPERTY SERVED BY PUBLIC WATER AND SEWER.
3. NO UTILITY EASEMENTS 25 FEET WIDE OR GREATER WERE FOUND ON THIS PROPERTY.
4. THERE ARE NO FLOOD PLAIN OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
5. NO GRAVE SITES OR BURIAL GROUNDS WERE FOUND ON THIS PROPERTY.
6. MINIMUM YARDS REQUIRED:

FRONT	30 FEET
SIDE	10 FEET
REAR	25 FEET
7. HEIGHTS:

DWELLING	23 FEET
SHED	11 FEET
OPEN PORCH FLOOR	1.0 FEET
FENCES/OTHER	AS SHOWN
8. APPROXIMATE FLOOR AREAS:

DWELLING	2,900 SQUARE FEET
SHED	134 SQUARE FEET
FAR:	.38
9. THE DWELLING WAS CONSTRUCTED IN 1994.
10. IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS NOTED.
11. THERE ARE NO PLANNED CHANGES TO TREES OR SHRUBS.

PHRT
LOT 154

PART
LOT 155

PART
LOT 155

FRANCONIA ROAD
ROUTE 644
WIDTH VARIES
R=81.0'
4" CONCRETE
E=103.05'

FRANCONIA ROAD
ROUTE 644
WIDTH VARIES
R=81.0'
4" CONCRETE
E=103.05'

RECEIVED
Department of Planning & Zoning
DEC 13 2013
Zoning Evaluation Division
GRAPHIC SCALE:

Zoning Evaluation Division

SPECIAL PERMIT PLAT

PART OF LOT 155, SECTION 17

BUSH HILL WOODS


LEE DISTRICT

FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 20'

NOVEMBER 21, 2013

GRAPHIC SCALE:



SCALE: 1" = 20'

NOVEMBER 21, 2013

THE POSITION OF THE EXISTING
IMPROVEMENTS HAS BEEN
ESTABLISHED BY AN ON SITE
INSTRUMENT SURVEY.

NO TITLE REPORT FURNISHED.
THIS PLAT IS SUBJECT TO
RESTRICTIONS AND EASEMENTS
RECORDED OF RECORD OR
ESTABLISHED.

CASE NAME:

LE

DZOAN-CHAU NGO LE

ALTERRA SURVEYS, INC.
11350 RANDOM HILLS ROAD #430
FAIRFAX, VIRGINIA 22030
TEL. NO. 703-520-1558
FAX NO. 703-995-4800
INBOX@ALTERRASURVEYS.COM

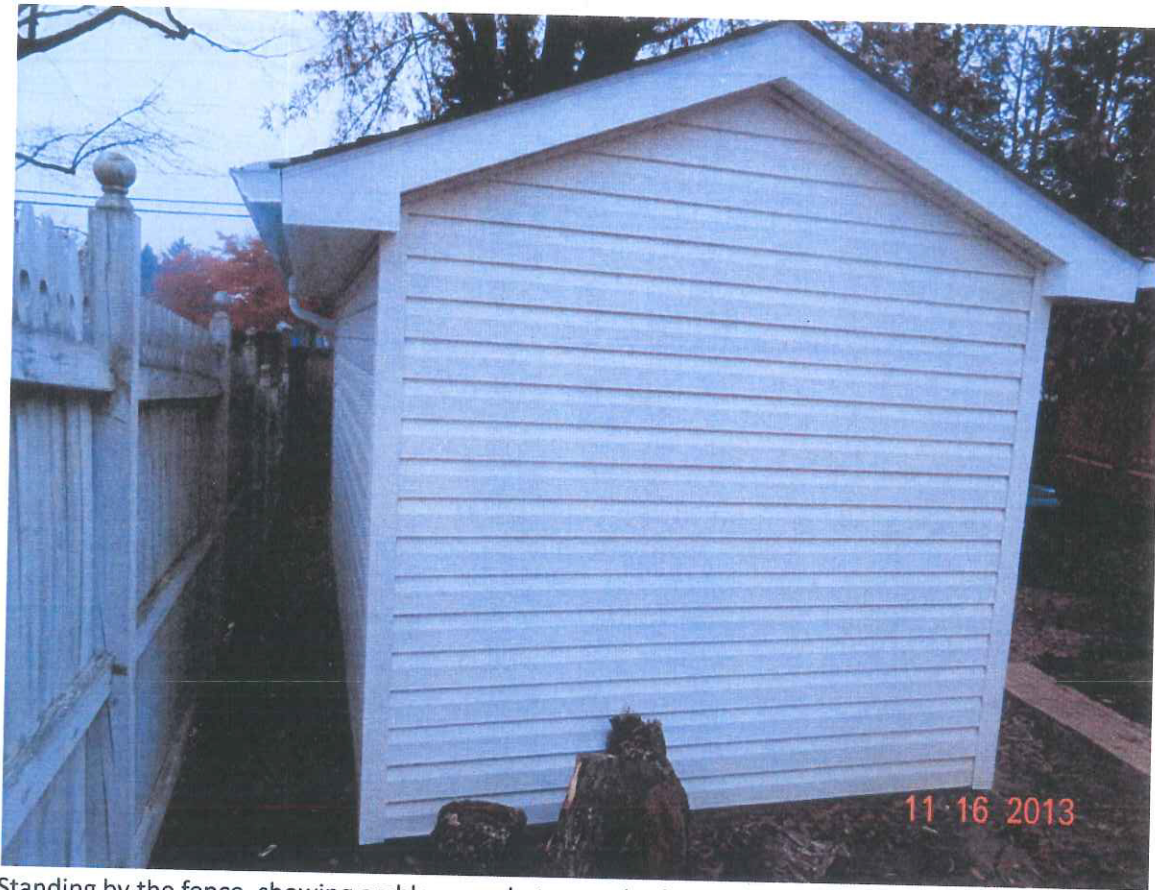
PAE

#13-0531





RECEIVED
Department of Planning & Zoning
FEB 27 2014
Zoning Evaluation Division



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Zoning Evaluation Division

Standing by the fence, showing ample space between the fence and the shed



The front of the shed – as you see, it's not high at all.



Showing the high foundation (1/4 the height of the shed)



Standing against the tree from the other side of the shed

RECEIVED
Department of Planning & Zoning

FEB 27 2014

Zoning Evaluation Division



Standing from the back of the yard



Standing from the other side of the yard

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Zoning Evaluation Division

The other side of the yard (standing from the back fence – in front of the trees)



The other side of the yard (standing from the front fence)



Standing in front of the house, you don't even see the shed.



Due to the steep slope of the yard, if standing to the far right-hand side the shed is shown

RECEIVED
Department of Planning & Zoning

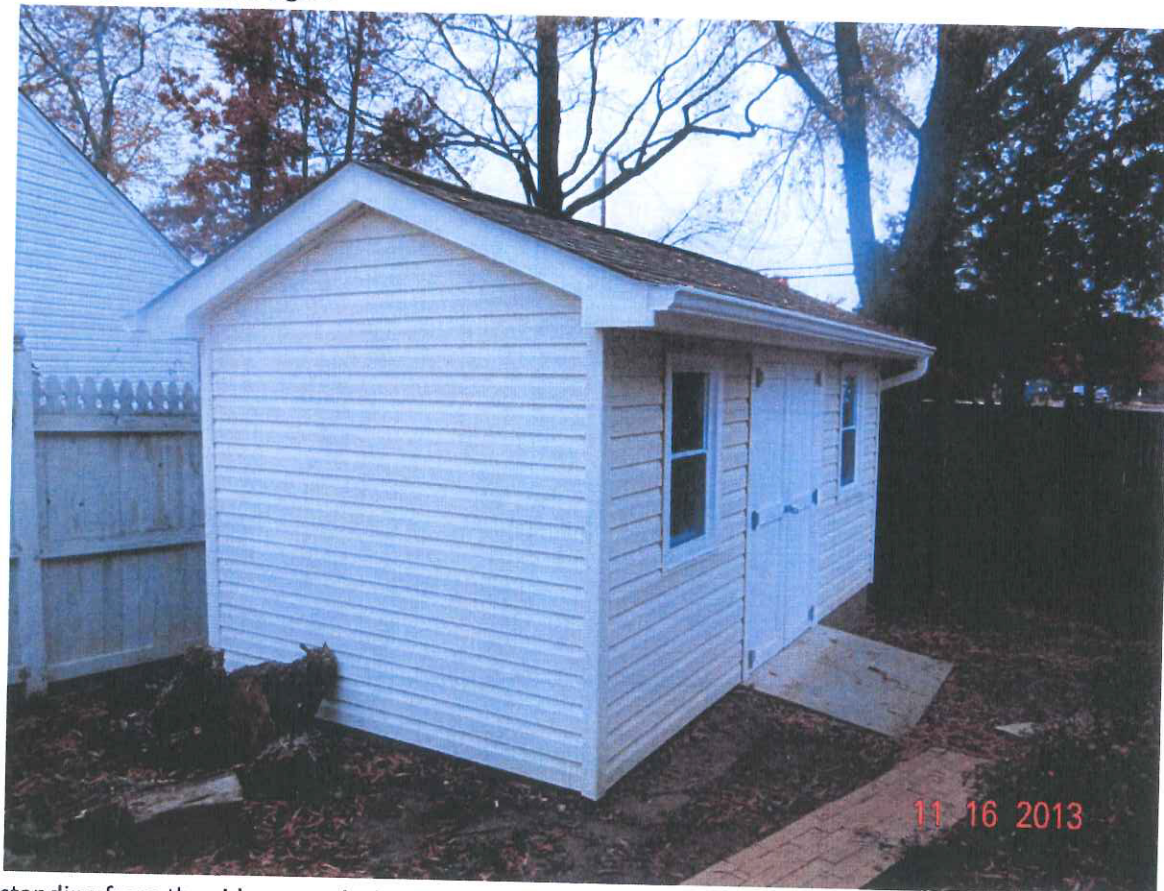
FEB 27 2014

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Standing at the fence's gate



standing from the side garage's door

RECEIVED
Department of Planning & Zoning

FEB 27 2014

Zoning Evaluation Division



DESCRIPTION OF THE APPLICATION

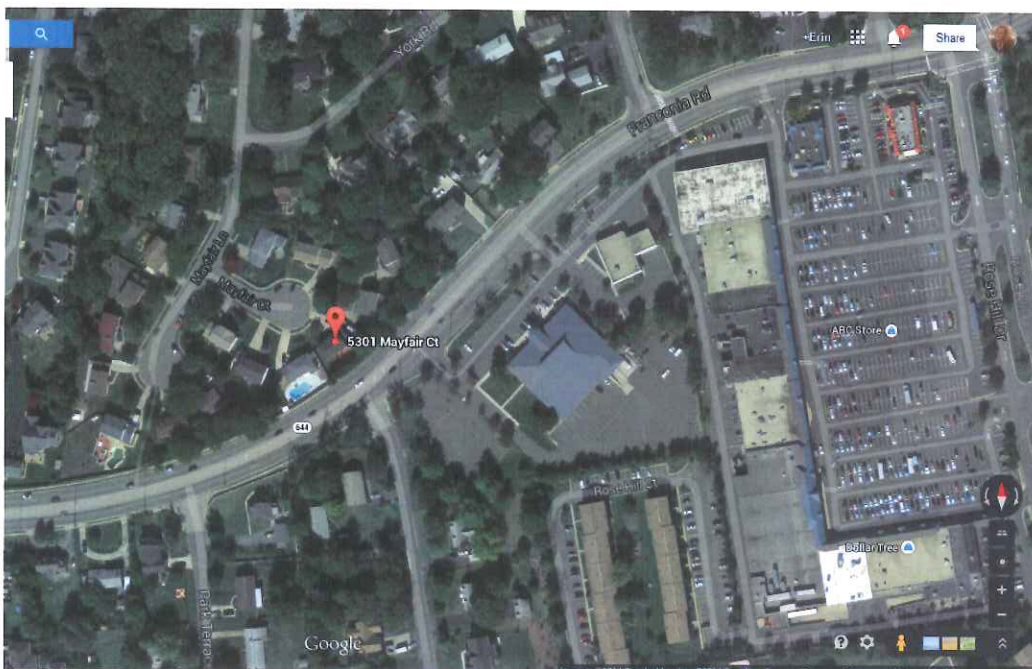
The applicant is requesting approval of a special permit to allow a reduction in minimum yard requirements based on an error in building location to permit an accessory storage structure (shed) to remain 1.1 feet from the southwestern side lot line. A minimum side yard of 10.0 feet is required; therefore a reduction of 8.9 feet is requested.

A copy of the special permit plat depicting the structures on site, titled "Special Permit Plat, Part of Lot 155, Section 11, Bush Hill Woods," prepared by Patrick A. Eckert, Land Surveyor of Alterra Surveys, Inc., dated November 26, 2013, is included at the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 7,945 square foot lot is developed with a two story brick and frame single family detached dwelling, constructed in 1984. A concrete driveway provides access to the dwelling from Mayfair Court. A walkway leads from the driveway to an open porch and front door. An open deck 5.0 feet in height is located at the rear of the dwelling, along with a trampoline 3.0 feet in height. A shed 11.0 feet in height and approximately 134.5 square feet in size is located to the north of the dwelling in the rear yard. A storm drainage easement 10.0 feet in width runs across the southern side yard lot line. Two drainage inlets are located in the rear yard area. A frame fence 6.0 feet in height encloses the rear yard. The property has a lawn with shrubs and mature trees.

As depicted in the picture below, the application property and lots to the north, east, and west are zoned R-4 and developed with single family detached dwellings. The property to the south is zoned R-3 and developed with a single family detached dwelling.



BACKGROUND

According to Fairfax County Tax Records the applicant purchased the property in January of 2012. On September 10, 2013, County staff inspected the property and discovered violations relating to the shed. A Notice of Violation was issued on September 19, 2013 and is attached as Appendix 4. No building permits were found for the construction of the shed.

A copy of information outlining similar special permit and variance requests in the area is attached in Appendix 5.

ZONING ORDINANCE REQUIREMENTS

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 6. Subject to development conditions, the special permit must meet these standards.

CONCLUSION

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation, dated September 19, 2013
5. Similar Case History
6. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2014-LE-023

June 11, 2014

1. This special permit is approved for the location of the accessory storage structure (shed, 11.0 feet in height and approximately 134.5 square feet in size), as shown on the special permit plat titled, "Special Permit Plat, Part of Lot 155, Section 11, Bush Hill Woods," prepared by Patrick A. Eckert, Land Surveyor of Alterra Surveys, Inc., dated November 26 2013.
2. All applicable permits and final inspections shall be obtained for the accessory storage structure (shed) within 180 days of approval of this application.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Application No.(s): SP 2014-LE-023
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/27/2014
 (enter date affidavit is notarized)

123583

I, Dzoan-Chau Ngo Le, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) ☒ applicant
☐ applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Dzoan-Chau Ngo Le	1477 Girard St NW Washington, DC 20009	Applicant/Title Owner

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s):

SP 2014-LE-023
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/27/2014

(enter date affidavit is notarized)

123583

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2014-LE-023
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/27/2014
(enter date affidavit is notarized)

123583

- 1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s):

SP 2014-LE-023
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/27/2014
(enter date affidavit is notarized)

123583

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

None

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s):

SP 2014-LE-023
(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/27/2014

(enter date affidavit is notarized)

123583

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on line below.)

None

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

☒ Applicant

☐ Applicant's Authorized Agent

Dzoan-Chau Ngo Le

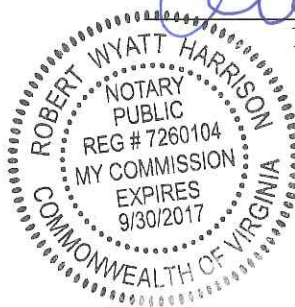
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 27 day of February, 2014, in the State/Comm. of Virginia, County/City of Fairfax.

My commission expires:

9-30-2017

Notary Public



RECEIVED
Department of Planning & Zoning

FEB 27 2014

Zoning Evaluation Division

1477 Girard St NW
Washington, DC 20009

25 February 2014

Dear Sir/Madam,

I request a special permit in reduction of minimum yard requirements based on error in building location to permit an accessory storage structure (a shed) to remain twelve feet six inches (12'6") in height, one hundred sixty (160) square feet in area and one foot (1') from the side lot line.

The noncompliance was done due to the steep slope of my yard, which required a two-and-a-half foot (2.5') raised foundation, and my ignorance about the county's method of measurements, in that I thought eight and a half feet (8.5') in height would be from the top of the foundation to the eaves - the height of the usable space - because, for an A-frame shed, the door would be too short for an average person to enter if it is the height from the ridge to the bottom of the foundation.

The other mistake we made was that we concerned about rodents and pests living under the shed and decided to have a concrete foundation, which now prevents us from moving to a different location. Although, due to the limitation in square footage, no location in our yard would meet the ten-feet (10') requirement from the shed to the side lot line.

The shed is used to store tools, lawn care equipment and supplies, clothing and toys, furniture and appliances, and other used household items. It will not contain any hazardous or toxic substance or waste. Therefore, this reduction will not impair the purpose or intent of this ordinance. It will not be detrimental to the use and enjoyment of other properties in the neighborhood since it is barely visible from outside our yard. Forcing compliance would cause extreme financial hardship on us since we have invested all of our saving into the shed.

Sincerely,

Dzoan-Chau Ngo Le, homeowner



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: September 19, 2013

METHOD OF SERVICE: CERTIFIED MAIL # 7012 1010 0002 4316 9173

LEGAL NOTICE ISSUED TO: Dzoan-Chau Ngo Le
ADDRESS: 1477 Girard Street NW
 Washington, DC 20009

LOCATION OF VIOLATION: 5301 Mayfair Court
 Alexandria, Virginia 22310-1132

TAX MAP REF: 81-4 ((27)) 155
ZONING DISTRICT: R- 4

CASE #: 201305720 **SR #:** 97768

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§10.104.10D	\$ 200.00	\$ 500.00
	TOTAL:	\$ 200.00	\$ 500.00

Dear Responsible Party:

An inspection of the above referenced property on September 10, 2013 revealed the following violation(s) of the Fairfax County Zoning Ordinance:

§ 10-104 (10D) Accessory Storage Structure Location
§ 2-302 (6) Accessory Use must comply with Article 10:

The presence of an accessory storage structure which measured approximately twelve feet six inches (12'6") in height, is approximately one hundred sixty (160) square feet in area and is located approximately one foot (1') from the side lot line.

Department of Code Compliance
 12055 Government Center Parkway, Suite 1016
 Fairfax, Virginia 22035-5508
 Phone 703-324-1300 Fax 703-324-9346
www.fairfaxcounty.gov/code

Dzoan-Chau Ngo Le
September 19, 2013
SR #: 97768
Page 2

The Fairfax County Zoning Ordinance permits accessory storage structures to be located in minimum required yards; however, if the structure exceeds eight and one-half (8½) feet in height, it must be located on the lot so as to comply with Par. 10D of Sect. 10-104 of the Zoning Ordinance which states:

An accessory storage structure which exceeds eight and one half (8 ½) feet in height shall not be located in any part of any minimum required side yard.

The minimum required side yard distance in the R-4 District is ten feet (10') as detailed in Par. 2 Sect. 3-407 of the Zoning Ordinance.

Therefore, as this accessory storage structure exceeds eight and one-half (8 ½) feet in height and is not located in accordance with the provisions of Par. 10D of Sect. 10-104 above, it is in violation of Par. 10D of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Par. 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by:

- Removing the storage structure from the property in its entirety; or
- Reducing the height of the structure to eight and one-half (8 ½) feet or less to allow it to remain at its present location; or
- Relocating the structure to a distance from the side lot line in accordance with Par. 10D of Sect. 10-104 of the Zoning Ordinance as outlined above.

As an alternative you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties.

Dzoan-Chau Ngo Le
September 19, 2013
SR #: 97768
Page 3

Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314

Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-1993. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:


Signature

John Comiskey
Code Compliance Investigator
(703)324-1993

Similar Case History

Group: 93-L-045**SP 93-L-045****APPLICANT:** FITZGERALD, LYNNWOOD S.**STATUS:** APPLICATION APPROVED**STATUS/DECISION DTE:** 11/03/1993**ZONING DISTRICT:** R-1

R-2

DESCRIPTION:

REDUCTION TO MIN. YARD REQ. BASED ON ERROR IN BLDG. LOCATION TO ALLOW DWELLING TO REMAIN 26.8 FT. FROM STREETLINE OF CORNER LOT AND ACCESSORY STRUCTURE TO REMAIN 10.4 FT. & 9.7 FT. FROM SIDE LOT LINE AND 10.4 FT. FROM REAR LOT LINE

LOCATION:

5951 FRANCONIA ROAD

TAX MAP #S:

0814 01 0013

0814 02 0040

0814 02 0039

Group: 2013-LE-005**SP 2013-LE-005**STAFF REPORT**APPLICANT:** SAIRA AND FARHAN ALI**STATUS:** APPLICATION APPROVED**STATUS/DECISION DTE:** 04/17/2013**ZONING DISTRICT:** R-3**DESCRIPTION:**

ACCESSORY DWELLING UNIT, EXISTING FENCE GREATER THAN 4 FEET IN HEIGHT TO REMAIN IN FRONT YARD AND ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STRUCTURE TO REMAIN 4.9 FEET FROM SIDE LOT LINE

LOCATION:

6232 PARK TERRACE, ALEXANDRIA, VA 22310

TAX MAP #S:

0814 05 0039A

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.